



Jennifer Kwapisz  
+1 212.836.7439 Direct  
Jennifer.Kwapisz@arnoldporter.com

August 23, 2024

**VIA ECF**

The Honorable Arun Subramanian  
Daniel Patrick Moynihan U.S. Courthouse  
United States District Court for the Southern  
District of New York  
500 Pearl St.  
New York, NY 10007-1312

Re: *Sandoval v. Abbott House*, No. 1:24-cv-00502 (AS)

Dear Judge Subramanian:

On behalf of minors E.S., E.S., and E.S, we write in advance of the upcoming Initial Pretrial Conference currently scheduled for September 5, 2024 in the above-captioned action, to bring to the Court's attention certain matters that will bear upon that conference and the Court's request for a joint letter and proposed Civil Case Management Plan and Scheduling Order in advance of that conference (Dkt. No. 17).

As the Court is aware, this action involves claims asserted by Plaintiff Melissa Sandoval on behalf of herself and her minor children under 42 U.S.C. § 1983 and state law, regarding injuries that the children allegedly suffered while in the custody of Defendant Abbott House, a New York foster care agency. Because Ms. Sandoval appears in this matter *pro se*, the Court found that Ms. Sandoval cannot bring these claims on behalf of her children and directed the Clerk of Court to attempt to locate pro bono counsel to represent the children (Dkt. No. 6). On May 14, 2024, the Court appointed Arnold & Porter Kaye Scholer LLP, through the undersigned and those working under her supervision, *pro bono* counsel to represent the Sandoval children (Dkt. No. 13). On July 11, 2014, the Court entered a Notice of Initial Pretrial Conference, setting an Initial Pretrial Conference for September 5, 2024 (Dkt. No. 17).

We write for two reasons. First, we write to alert the Court that our understanding is that Abbott House has not yet been served. While the docket reflects that a Service Package was delivered to the U.S. Marshals Service on May 29, 2024, there is no indication that service has been effectuated, and Abbot House has not yet appeared. Accordingly, the Court may wish to adjourn the Initial Pretrial Conference to a later date.

# Arnold & Porter

August 23, 2024

Page 2

Second, we write to notify the Court that we anticipate filing a Notice of Voluntary Dismissal of the claims asserted on behalf of E.S., E.S., and E.S. in this case. Since our appointment as counsel for the children, we have been investigating the allegations in the Complaint and in concurrent proceedings in New York State Family Court, Kings County, and we have spoken to the attorneys representing Ms. Sandoval, Abbott House, and the children in the Family Court proceedings, as well as to our clients, their foster parents, and Ms. Sandoval.<sup>1</sup> Earlier this year, the Family Court terminated Ms. Sandoval's parental rights as to the two older children. That order is on appeal. Termination of parental rights proceedings are ongoing as to the youngest Sandoval child. The agency's current goal for the children is adoption of the children by their foster parents, who have had the children in their care for over 2.5 years.

During the course of the Family Court proceedings, Ms. Sandoval has made claims similar to those asserted here regarding the care of the children while in foster care. Our understanding based on the record and our conversations with those involved in the Family Court proceedings is that those allegations were investigated, and that the children are subject to regular, frequent monitoring while in foster care. The children's position throughout the proceedings has been not to support the allegations. The children are supportive of the agency's plan of adoption. In light of those positions, which are consistent with and supported by our investigation, we anticipate filing a Notice of Voluntary Dismissal of the claims asserted on behalf of E.S., E.S., and E.S. Should the Court require additional information or prefer that we proceed in a different manner, we are of course happy to appear for a conference or provide an additional submission. The voluntary dismissal would only affect the claims asserted on behalf of E.S., E.S., and E.S., and not Ms. Sandoval's claims asserted on her own behalf.

We appreciate the Court's consideration of this matter.

Sincerely,

/s/ Jennifer Kwapisz

Jennifer Kwapisz

ARNOLD & PORTER KAYE SCHOLER LLP

250 West 55th Street

New York, NY 10019-9710

Tel.: (212) 836-8000

jennifer.kwapisz@arnoldporter.com

cc: Melissa Sandoval, via ECF

---

<sup>1</sup> See Kings County Family Court Docket Nos. B-10355-21, B-12409-20, B-25457-23 (termination of parental rights); NN-10959-21 (child neglect).